



GAIL FARBER, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
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ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE

REFER TO FILE: **FL-0**

June 9, 2009

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

60

JUNE 9, 2009

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Dear Supervisors:

**ACCEPTANCE OF A GRANT FROM THE MOBILE SOURCE
AIR POLLUTION REDUCTION REVIEW COMMITTEE
INCENTIVES FOR THE PURCHASE OF HEAVY DUTY
ALTERNATIVE FUEL ENGINES FOR ON-ROAD VEHICLES
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

SUBJECT

This action is to approve the acceptance of grant funding for the purchase of three alternative fuel, heavy duty on-road aerial lift trucks to comply with the South Coast Air Quality Management District rules.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Accept up to \$90,000 in grant funding from the Mobile Source Air Pollution Reduction Review Committee to partially fund the purchase of three alternative fuel, heavy duty on-road aerial lift trucks.
2. Authorize the Director of Public Works or her designee to conduct business with the Mobile Source Air Pollution Reduction Review Committee on any and all matters related to this grant, including negotiating and executing the grant contract and signing any amendments and requests for reimbursement.

3. Authorize the Director of Public Works or her designee to act as an agent for the County to approve and execute amendments, if necessary, to this grant, including extensions of time, minor changes in project scope, and alterations in the project budget or grant amount, subject to approval of such documents by County Counsel.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended action is to accept grant funding from the Mobile Source Air Pollution Reduction Review Committee (MSRC) to partially fund the purchase of three alternative fuel, heavy duty on-road aerial lift trucks to assist in reducing diesel emissions. These purchases are necessary for the Department of Public Works to comply with the South Coast Air Quality Management District Rule 1196, which prohibits the purchase of diesel-powered heavy duty trucks. The replacement of diesel-powered vehicles with alternative fuel vehicles will substantially reduce harmful diesel emissions. These replacement vehicles will decrease carbon emissions by 25 percent, particulate matters by 85 percent, and nitrogen oxides by 50 percent.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the provision of Operational Effectiveness (Goal 1), Community and Municipal Services (Goal 3), and Health and Mental Health (Goal 4). This action accepts grant funds, augmenting the County's funding sources and improving air quality through diesel-emission reduction in the unincorporated County areas.

FISCAL IMPACT/FINANCING

There will be no impact to the County General Fund. The total project cost to purchase three alternative fuel, heavy duty on-road aerial lift trucks is estimated to be \$465,000. The total project cost is financed by the Fiscal Year 2008-09 Internal Service Fund Budget with subsequent reimbursement from the MSRC grant in an amount up to \$90,000 upon the purchase of the three alternative fuel, heavy duty on-road aerial lift trucks and submission of all required invoices.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The attached grant contract has been reviewed and approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION

In accordance with Section 15378(b)(4) of the California Environmental Quality Act (CEQA) Guidelines, approval of the recommended proposed action does not constitute a project and, hence, is not subject to the requirements of CEQA. This exception provides for the authorization to accept a grant since it is a fiscal activity that does not involve any commitment to any specific project, which may result in the potentially significant impact on the environment.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The purchase of three alternative fuel, heavy duty on-road aerial lift trucks will result in the reduction of diesel emissions, such as particulate matters, nitrogen oxides, carbon monoxide, and hydrocarbons, which will improve the air quality for County of Los Angeles residents.

CONCLUSION

Please return three adopted copies of this letter to the Department of Public Works, Fleet Management Group.

Respectfully submitted,



GAIL FARBER
Director of Public Works

GF:PJM:ar

Attachment

c: Chief Executive Office (Lari Sheehan)
County Counsel
Executive Office



**South Coast
Air Quality Management District**



AB 2766/MSRC ADVANCED TECHNOLOGY HEAVY-DUTY ALTERNATIVE FUEL ENGINE PROGRAM CONTRACT

1. **PARTIES** - The parties to this Contract are the South Coast Air Quality Management District (hereinafter referred to as "AQMD") whose address is 21865 Copley Drive, Diamond Bar, California 91765-4178, and the County of Los Angeles, Department of Public Works (hereinafter referred to as "CONTRACTOR") whose address is 900 S. Fremont Avenue, Alhambra, California 91803.
2. **RECITALS**
 - A. AQMD is the local agency with primary responsibility for regulating stationary source air pollution in the South Coast Air Basin in the State of California (State). AQMD is authorized under State Health & Safety Code Section 44225 (Assembly Bill (AB) 2766) to levy a fee on motor vehicles for the purpose of reducing air pollution from such vehicles and to implement the California Clean Air Act.
 - B. Under AB 2766 the AQMD'S Governing Board has authorized the imposition of the statutorily set motor vehicle fee. By taking such action the State's Department of Motor Vehicles (DMV) is required to collect such fee and remit it periodically to AQMD.
 - C. AB 2766 further mandates that thirty (30) percent of such vehicle registration fees be placed by AQMD into a separate account for the sole purpose of implementing and monitoring programs to reduce air pollution from motor vehicles.
 - D. AB 2766 creates a regional Mobile Source Air Pollution Reduction Review Committee (MSRC) to develop a work program to fund projects from the separate account. Pursuant to approval of the work program by AQMD'S Governing Board, AQMD Board authorized a contract with CONTRACTOR for services described in Attachment 1 - Statement of Work, expressly incorporated herein by this reference and made a part hereof of this Contract. CONTRACTOR warrants that it is well qualified, experienced, and has the expertise to provide such services on the terms set forth here.
3. **DMV FEES** - CONTRACTOR acknowledges that AQMD cannot guarantee the amount of fees to be collected under AB 2766 will be sufficient to fund this Contract. CONTRACTOR further acknowledges that AQMD'S receipt of funds is contingent on the timely remittance by State's DMV. AQMD assumes no responsibility for the collection and remittance of motor vehicle registration fees by DMV to AQMD in a timely manner.
4. **AUDIT** - Additionally, CONTRACTOR shall, at least once every two years, or within two years of the termination of the Contract if the term is less than two years, be subject to an audit by AQMD or its authorized representative to determine if the revenues received by CONTRACTOR were spent for the reduction of pollution from Motor Vehicles pursuant to the Clean Air Act of 1988. AQMD shall coordinate such audit through CONTRACTOR'S audit staff. If an amount is found to be inappropriately expended, AQMD may withhold revenue from CONTRACTOR in the amount equal to the amount which was inappropriately expended. Such withholding shall not be construed as AQMD'S sole

remedy and shall not relieve CONTRACTOR of its obligation to perform under the terms of this Contract.

5. REPORTING

A. **PROGRESS REPORTS** - CONTRACTOR shall submit progress reports to AQMD within fifteen (15) days of the end of the reporting period which shall be on a quarterly basis beginning three months after the date this Contract is signed by both parties. Such reports shall detail: 1) work performed during the current reporting period; 2) work planned for the next reporting period; 3) problems identified, solved, and/or unresolved; 4) the percentage of each task completed; 5) delays in meeting the project schedule with an explanation including a description of what steps will be taken to complete the project on time; and 6) a cost breakdown by cost category for each task showing both the amount of AB 2766 funds expended and co-funding expended for the reporting period and the cumulative period to date. Progress reports that do not comply will be returned to CONTRACTOR as inadequate. Under this policy, failure to submit progress reports within the allotted time may be considered a material breach and subject the Contract to termination.

1. If CONTRACTOR fails to submit progress reports as required by the Contract, the following shall occur: If after seven (7) days past the progress report due date CONTRACTOR fails to submit progress reports, MSRC Contract staff will notify CONTRACTOR in writing of the delinquency and request that the progress report be submitted within seven (7) days of the written notice.
2. For Monthly Reports: If CONTRACTOR fails to submit a progress report for the second consecutive month, the MSRC Contract Administrator shall send a second written notice indicating that two previous progress reports are due and that they must be submitted within fifteen (15) days. If CONTRACTOR fails to provide a report for a third consecutive month, AQMD's Procurement Manager shall provide written notice to CONTRACTOR to cure the delinquency within fifteen (15) days of the notice or be subject to termination within thirty (30) days.
3. For Quarterly Reports: If CONTRACTOR fails to submit a progress report, the MSRC Contract Administrator shall send a written notice indicating that the progress report is due and that it must be submitted within fifteen (15) days. If CONTRACTOR does not respond within the allotted time, AQMD's Procurement Manager shall provide written notice to CONTRACTOR to cure the delinquency within fifteen (15) days of the notice or be subject to termination within thirty (30) days.
4. If CONTRACTOR has a history of non-consecutive (three or more occasions) delinquent progress reports, this may be considered a material breach of the Contract and be grounds for immediate termination of the Contract. For example, if progress reports are submitted in such an inconsistent and sporadic fashion as to indicate a lack of compliance with this Contract provision (e.g., progress report submitted one month, skipping several months thereafter).
5. If a contract is terminated as a result of this policy, the direct contractor involved will not be eligible to apply for AB 2766 Discretionary Funds for two programs years.

B. **FINAL REPORT** - CONTRACTOR shall provide AQMD with a comprehensive final report in accordance with the project schedule specified in Attachment 1 – Statement of Work. The final

report shall be subject to review by the MSRC and approval by AQMD, and shall be provided in the format and manner directed by AQMD staff. The final report shall be complete and include illustrations and graphs, as appropriate, to document the work performed and the results thereof under this Contract. The final report will also contain, in detail, the reduction of mobile source air pollution emissions resulting from the project's implementation.

6. TERM - The term of this Contract is from the date of execution by both parties to eighty six (86) months, unless terminated earlier as provided for in Clause 7 below entitled Termination, or extended by modification of this Contract in writing. No work shall commence prior to the Contract start date, except at CONTRACTOR'S cost and risk, and no charges are authorized until this Contract is fully executed. Upon written request and with adequate justification from CONTRACTOR, the MSRC Contracts Administrator may extend the Contract up to an additional six months at no additional cost. Term extensions greater than six months must be reviewed and approved by the MSRC.
7. TERMINATION
 - A. In the event any party fails to comply with any term or condition of this Contract, or fails to provide services in the manner agreed upon by the parties, including, but not limited to, the requirements of Attachment 1 – Statement of Work, this failure shall constitute a breach of this Contract. The non-breaching party shall notify the breaching party that it must cure this breach or provide written notification of its intention to terminate this contract. Notification shall be provided in the manner set forth in Clause 15. The non-breaching party reserves all rights under law and equity to enforce this contract and recover damages.
 - B. AQMD reserves the right to terminate this Contract, in whole or in part, without cause, upon thirty (30) days' written notice. Once such notice has been given, CONTRACTOR shall, except as and to the extent or directed otherwise by AQMD, discontinue any Work being performed under this Contract and cancel any of CONTRACTOR's orders for materials, facilities, and supplies in connection with such Work, and shall use its best efforts to procure termination of existing subcontracts upon terms satisfactory to AQMD. Thereafter, CONTRACTOR shall perform only such services as may be necessary to preserve and protect any Work already in progress and to dispose of any property as requested by AQMD.
 - C. CONTRACTOR shall be paid in accordance with this Contract for all Work performed before the effective date of termination under Clause 7.B. Before expiration of the thirty (30) days' written notice, CONTRACTOR shall promptly deliver to AQMD all copies of documents and other information and data prepared or developed by CONTRACTOR under this Contract with the exception of a record copy of such materials, which may be retained by CONTRACTOR.
8. EARLY TERMINATION – This Contract may be terminated early if the vehicle(s) become inoperable through mechanical failure of components or systems directly related to the alternative fuel technology being utilized, and such failure is not caused by CONTRACTOR'S negligence, misuse, or malfeasance.
9. INSURANCE - CONTRACTOR represents that it is permissibly self-insured and will maintain such self-insurance in accordance with applicable provisions of California law throughout the term of this Contract. CONTRACTOR shall provide evidence of sufficient coverage during the term of this Contract and any extensions thereof that meet or exceed the minimum requirements set forth by the

South Coast AQMD below. CONTRACTOR shall furnish certificate of self-insurance to: South Coast Air Quality Management District, Attn: Risk Management Office. **The AQMD Contract Number shall be included on the face of the certificate.** If CONTRACTOR fails to maintain the required insurance coverage, AQMD reserves the right to terminate the Contract or purchase such additional insurance and bill CONTRACTOR or deduct the cost thereof from any payments owed to CONTRACTOR. Minimum insurance coverages are as follows:

- A. Worker's compensation insurance in accordance with either California or other state's applicable statutory requirements.
- B. General Liability insurance with a limit of at least \$1,000,000 per occurrence, and \$2,000,000 in general aggregate.
- C. Automobile Liability insurance with limits of at least \$100,000 per person and \$300,000 per accident for bodily injuries and \$50,000 in property damage, or \$1,000,000 combined single limit for bodily injury or property damage.

10. INDEMNIFICATION - CONTRACTOR agrees to hold harmless, defend, and indemnify, AQMD, its officers, employees, agents, representatives, and successors-in-interest against any and all loss, damage, cost, or expenses which AQMD, its officers, employees, agents, representatives, and successors-in-interest may incur or be required to pay by reason of any injury or property damage caused or incurred by CONTRACTOR, its employees, subcontractors, or agents in the performance of this Contract.

11. PAYMENT

- A. AQMD shall reimburse CONTRACTOR up to a total amount of Ninety Thousand Dollars (\$90,000) in accordance with Attachment 2 - Payment Schedule, expressly incorporated herein by this reference and made a part hereof of this Contract. Any funds not expended upon early contract termination or contract completion shall revert to the AB 2766 Discretionary Fund. Payment of charges shall be made by AQMD to CONTRACTOR within thirty (30) days after approval by AQMD of an itemized invoice prepared and furnished by CONTRACTOR, referencing the task completed or a percent of work accomplished and detailing line item expenditures as listed in Attachment 2, Costs by Category, and the amount of charge claimed.
- B. An invoice submitted to AQMD for payment must be prepared in duplicate, on company letterhead, and list AQMD'S contract number, period covered by invoice, and CONTRACTOR'S social security number or Employer Identification Number and submitted to:

South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765-4178
Attn: Cynthia Ravenstein, MSRC Contract Administrator

- C. AQMD'S payment of invoices shall be subject to the following limitations and requirements:
 - 1. Charges for equipment, material, and supply costs, travel expenses, subcontractors, and other charges, as applicable, must be itemized by CONTRACTOR. Reimbursement for equipment, material, supplies, subcontractors, and other charges shall be made at actual cost. Supporting documentation must be provided for all individual charges (with the exception of direct labor charges provided by CONTRACTOR).

2. CONTRACTOR'S failure to provide receipts shall be grounds for AQMD'S non-reimbursement of such charges. AQMD may reduce payments on invoices by those charges for which receipts were not provided.
- D. CONTRACTOR must submit final invoice no later than ninety (90) days after the termination date of this Contract or invoice may not be paid.

12. MOBILE SOURCE EMISSION REDUCTION CREDITS (MSERCs)

- A. The MSRC has adopted a policy that no MSERCs resulting from AB 2766 Discretionary Funds may be generated and/or sold.
- B. CONTRACTOR has the opportunity to generate MSERCs as a by-product of the project if a portion of the air quality benefits attributable to the project resulted from other funding sources. These MSERCs, which are issued by AQMD, are based upon the quantified vehicle miles traveled (VMT) by project vehicles or other activity data as appropriate. Therefore, a portion of prospective MSERCs, generated as a result of AB 2766 Funds, must be retired. The portion of prospective credits funded by the AB 2766 program, and which are subject to retirement, shall be referred to as "AB 2766-MSERCs."
- C. The determination of AB 2766-MSERC's is to be prorated based upon the AB 2766 program's contribution to the cost associated with the air quality benefits. In the case where AB 2766 Discretionary Funds are used to pay for the full differential cost of a new alternative fuel vehicle or for the retrofitting or repowering of an existing vehicle, all MSERCs attributable to AB 2766 Discretionary Funds must be retired. The determination of AB 2766-MSERCs for infrastructure and other ancillary items is to be prorated based upon the AB 2766 program's contribution to the associated air quality benefits. Determination of the project's overall cost will be on a case-by-case basis at the time an MSERC application is submitted. AQMD staff, at the time an MSERC application is submitted, will calculate total MSERCs and retire the AB 2766-MSERCs. CONTRACTOR would then receive the balance of the MSERCs not associated with AB 2766 funding.

13. DISPLAY OF MSRC LOGO - CONTRACTOR agrees to permanently display one MSRC decal in a prominent location on each vehicle purchased pursuant to this Contract. CONTRACTOR also agrees to permanently display one MSRC decal in a prominent location on each fueling or charging station constructed pursuant to this Contract. Decals will be provided by MSRC upon notification that subject fueling station equipment and/or vehicles are placed into service. Decals are approximately twelve (12) inches in height and eighteen (18) inches in width (Note: a smaller decal may be provided if CONTRACTOR demonstrates that application of the standard decal is not practicable). CONTRACTOR shall maintain decal for life of vehicle or equipment subject to this Contract. Should any decal become damaged, faded, or otherwise unreadable, CONTRACTOR shall request replacement decal from MSRC and apply new decal in the same or other prominent location. MSRC shall not be responsible for damage to paint or other vehicle surfaces arising from application or removal of decals. In addition, all promotional materials related to the project, including, but not limited to, press kits, brochures and signs shall include the MSRC logo. Press releases shall acknowledge MSRC financial support for the project.

14. ACCRUAL OF MILEAGE WITHIN SOUTH COAST AIR QUALITY DISTRICT – CONTRACTOR is obligated to comply with the geographical restriction requirements as follows:

- A. Each of the vehicles funded under this Contract must accrue at least 85% of its annual mileage or engine hours of operation within the geographical boundaries of the South Coast Air Quality Management District for a period of no less than five (5) years from the date the vehicle enters service (new vehicles) or returns to service (repowered vehicles). Should CONTRACTOR deviate from or fail to comply with this obligation, for reasons other than those stated in Clause 8, CONTRACTOR shall reimburse AQMD for a prorated share of the funds provided for the vehicle as indicated in the table below:

5 year Operations Obligation Termination Occurs	Percentage of MSRC Funds to be Reimbursed
Within Year 1	100%
Between Years 1-2	80%
Between Years 2-3	60%
Between Years 3-4	40%
Between Years 4-5	20%
After Year 5	0%

- B. The appropriate reimbursable amount shall be paid to AQMD within sixty (60) days from the date the vehicle ceases to operate in accordance with the geographical restriction. CONTRACTOR shall not be responsible for any reimbursement to AQMD if the obligation is terminated as a result from one or more reasons set forth in Clause 8.
- C. Should CONTRACTOR sell, lease, transfer, assign or otherwise divest itself of the vehicles during the five year period referred to in clause 14.A, notice shall be provided to AQMD no less than 30 days preceding the sale, lease, transfer, or assignment is effectuated. The agreement effectuating the sale, lease, transfer or assignment shall state that the AQMD is an intended third-party beneficiary of the agreement and shall include the following requirement: the obligation to accrue mileage within the South Coast Air Quality Management District shall be a continuing obligation of the subsequent purchaser, lessee, transferee, successor in interest, heir or assign and shall remain in full force and effect until the expiration of the five year operation period. This obligation shall be passed down to any subsequent purchaser, lessee or transferee during this five year term and AQMD shall be an intended third-party beneficiary of any subsequent agreement. Upon receiving notice of any subsequent sale, lease, transfer, assignment or other divestiture, AQMD may elect to either require the reimbursement specified in Clause 14.A and 14.B, or require the subsequent purchaser, lessee, transferee or assignee to comply with the continuing obligation to operate the vehicle for a period of no less than five (5) years from the date the vehicle entered service (new vehicles) or re-service (re-powered vehicles). Notice of AQMD's election of remedies shall be provided to CONTRACTOR and any subsequent purchaser, lessee, transferee or assignee in a timely fashion.
15. NOTICES - Any notices from either party to the other shall be given in writing to the attention of the persons listed below or to other such addresses or addressees as may hereafter be designated in writing for notices by either party to the other. A notice shall be deemed received when delivered or three days after deposit in the U.S. Mail, postage prepaid, whichever is earlier.

AQMD: South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765-4178
Attn: Cynthia Ravenstein, MSRC Contract Administrator

CONTRACTOR: County of Los Angeles, Department of Public Works
900 S. Fremont Avenue
Alhambra, CA 91803
Attn: Ines Gonzalez

16. EMPLOYEES OF CONTRACTOR

- A. CONTRACTOR warrants that it will employ no subcontractor without written approval from AQMD. CONTRACTOR shall be responsible for the cost of regular pay to its employees, as well as cost of vacation, vacation replacements, sick leave, severance pay and pay for legal holidays.
- B. CONTRACTOR shall also pay all federal and state payroll taxes for its employees and shall maintain workers' compensation and liability insurance for each of its employees.
- C. CONTRACTOR, its officers, employees, agents, or representatives shall in no sense be considered employees or agents of AQMD, nor shall CONTRACTOR, its officers, employees, agents, or representatives be entitled to or eligible to participate in any benefits, privileges, or plans, given or extended by AQMD to its employees.
- D. CONTRACTOR warrants that it has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. CONTRACTOR further represents that in performance of this Contract, no person having any such interest shall be employed by CONTRACTOR or any subcontractor.

17. NON-DISCRIMINATION - In the performance of this Contract, CONTRACTOR shall not discriminate in recruiting, hiring, promotion, demotion, or termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age, or physical handicap and shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 12900, *et seq.*), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, Executive Order No. 11246 (30 Federal Register 12319), and all administrative rules and regulations issued pursuant to said Acts and Order. CONTRACTOR shall likewise require each subcontractor to comply with this clause and shall include in each such subcontract language similar to this clause.

18. COMPLIANCE WITH APPLICABLE LAWS - CONTRACTOR agrees to comply with all federal, state, and local laws, ordinances, codes and regulations and orders of public authorities in the performance of this Contract and to ensure that the provisions of this clause are included in all subcontracts.

19. ASSIGNMENT - The rights granted hereby may not be assigned, sold, licensed, or otherwise transferred by either party without the prior written consent of the other, and any attempt by either party to do so shall be void upon inception.

20. NON-EFFECT OF WAIVER – CONTRACTOR'S or AQMD'S failure to insist upon the performance of any or all of the terms, covenants, or conditions of this Contract, or failure to exercise any rights or remedies hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such terms, covenants, or conditions, or of the future exercise of such rights or remedies, unless otherwise provided for herein.
21. ATTORNEYS' FEES - In the event any action (including arbitration) is filed in connection with the enforcement or interpretation of this Contract, each party in said action shall pay its own attorneys' fees and costs.
22. FORCE MAJEURE - Neither AQMD nor CONTRACTOR shall be liable or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, or any similar cause beyond the reasonable control of AQMD or CONTRACTOR.
23. SEVERABILITY - In the event that any one or more of the provisions contained in this Contract shall for any reason be held to be unenforceable in any respect by a court of competent jurisdiction, such holding shall not affect any other provisions of this Contract, and the Contract shall then be construed as if such unenforceable provisions are not a part hereof.
24. HEADINGS - Headings on the clauses of this Contract are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Contract.
25. DUPLICATE EXECUTION - This Contract is executed in duplicate. Each signed copy shall have the force and effect of an original.
26. GOVERNING LAW - This Contract shall be construed and interpreted and the legal relations created thereby shall be determined in accordance with the laws of the State of California. Venue for resolution of any dispute shall be Los Angeles County, California.
27. PRECONTRACT COSTS - Any costs incurred by CONTRACTOR prior to CONTRACTOR receipt of a fully executed Contract shall be incurred solely at the risk of the CONTRACTOR. In the event that a formal Contract is not executed, neither the MSRC nor the AQMD shall be liable for any amounts expended in anticipation of a formal Contract. If a formal Contract does result, precontract cost expenditures authorized by the Contract will be reimbursed in accordance with the cost schedule and payment provision of the Contract.
28. CHANGE TERMS - Changes to any part of this Contract must be requested in writing by CONTRACTOR, submitted to AQMD and approved by MSRC in accordance with MSRC policies and procedures. CONTRACTOR must make such request a minimum of 90 days prior to desired effective date of change. All modifications to this Contract shall be in writing and signed by both parties.

29. ENTIRE CONTRACT - This Contract represents the entire agreement between the parties hereto related to CONTRACTOR providing services to AQMD and there are no understandings, representations, or warranties of any kind except as expressly set forth herein. No waiver, alteration, or modification of any of the provisions herein shall be binding on any party unless in writing and signed by the party against whom enforcement of such waiver, alteration, or modification is sought.
30. AUTHORITY - The signator hereto represents and warrants that he or she is authorized and empowered and has the legal capacity to execute this Contract and to legally bind CONTRACTOR both in an operational and financial capacity and that the requirements and obligations under this Contract are legally enforceable and binding on CONTRACTOR.

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IN WITNESS WHEREOF, the parties to this Contract have caused this Contract to be duly executed on their behalf by their authorized representatives.

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

COUNTY OF LOS ANGELES, DEPARTMENT OF PUBLIC WORKS

By: _____
Dr. William A. Burke, Chairman, Governing Board

By: _____


Date: _____

Date: _____

ATTEST:
Saundra McDaniel, Clerk of the Board

By: _____

APPROVED AS TO FORM:
Kurt Wiese, General Counsel

By: 

//MSRC/AdvancedLow-Emission Heavy Duty Alternative Fuel On-Road Engine Program
28 August 2008